

sources and methods. Is this also the understanding of the chairman of the Foreign Relations Committee?

Mr. HELMS. I believe that is correct. If the Department's assurances are accurate, then this provision would not modify DOD's current policies regarding the protection of sensitive sources and methods. The Foreign Relations Committee has no intention of seeking expanded access to such sources and methods, or to DOD special access programs, so long as DOD lives up to its reporting obligations under existing law. DOD's policy of not handling non-proliferation information within special access channels certainly provides a significant reassurance in that regard. Our concern is only to ensure that DOD policy regarding special access programs or intelligence sources and methods not be seen as obviating its long-standing legal obligations to inform appropriate committees of Congress.

Mr. WARNER. That is the case now, and I am pleased that DOD has assured both of us that the prerogatives of the Foreign Relations Committee will be protected. I thank my distinguished colleague, the chairman of the Foreign Relations Committee.

Mr. HELMS. I appreciate these assurances and thank my colleague, the chairman of the Armed Services Committee.

Mr. SHELBY. I am concerned with section 1134 which requires the DCI to provide certain information, including information contained in special access programs, to the chairman and ranking member of the Foreign Relations Committees. I note that this language on special access programs was added after the bill was passed by the Senate. I wish to clarify that the legislative intent of this provision does not wish to clarify that the legislative intent of this provision does not include expanded information relating to intelligence operational activities or sensitive sources and methods.

I ask for the chairman of the Foreign Relations Committee's clarification regarding the companion section in the State Department Authorization bill, section 1131. Am I correct in understanding that this provision does not levy the same requirement upon the Director of Central Intelligence that is required of the Secretaries of Defense, State, and Commerce?

Mr. HELMS. That is correct, Mr. Chairman. Unlike the other Secretaries you have mentioned, the Director of Central Intelligence is required only to disclose information covered under subparagraph (B). That information relates to significant proliferation activities of foreign nations. The Director is exempt from reporting information under subparagraph (A) and (B) which relates to the agency's operational activities. The Foreign Relations Committee understands that intelligence

operations fall within the jurisdiction of the Intelligence Committee, and therefore did not include such activities in this reporting requirement.

Mr. SHELBY. I thank the Chairman for that explanation and yield the floor. I look forward to fully reviewing those provisions in the Intelligence Committee next year.

UNANIMOUS-CONSENT AGREEMENT—H. CON. RES. 236

The PRESIDING OFFICER. Under the previous order, H. Con. Res. 236 is agreed to.

The motion to reconsider is laid upon the table.

The concurrent resolution (H. Con. Res. 236) was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am prepared to ask unanimous consent to be recognized for 5 minutes as in morning business, but I would certainly defer to the minority leader or majority leader if either has anything to address at this time.

The PRESIDING OFFICER. Without objection, the Senator from Oklahoma.

RECESS APPOINTMENTS

Mr. INHOFE. Mr. President, first of all I applaud the White House—this is probably the first time I have done that in 7 years—for responding to an issue that is very critical, probably one of the most critical issues we will be facing.

Going back in the history of recess appointments, the Constitution provided for recess appointments to be allowed, thereby avoiding the constitutional prerogative of the Senate of advice and consent in certain conditions. The major condition was that a vacancy would occur during the course of the recess. This goes back to the horse-and-buggy days when we were in session for 2 or 3 months at a time and then we were gone. So if someone such as the Secretary of State would die in office, it would allow the President to replace that person without having to go through the advice and consent.

Throughout the years, both Democrat and Republican Presidents have abused this. They have made recess appointments. In 1985, President Reagan made quite a few of them. The majority at that time, the Democrats, under the majority leadership of Senator BYRD from West Virginia, made the determination that he was making too many recess appointments.

He challenged the President to submit a letter that would outline future recess appointments during the Reagan administration. In 1985, a letter was sent from President Reagan to then-majority leader, Senator BYRD from West Virginia that stated no more recess appointments would take place

unless the names of the individuals who were considered for recess appointment were submitted in writing in sufficient time in advance that the majority or minority leaders could take some type of action.

For example, if they were going to have someone recess appointed for the express purpose of avoiding the advice and consent of the Senate, then they would just not go into recess; they would go into pro forma, where they would have someone in the Chair all the time to make sure that did not happen. Also, it would be an opportunity to make sure they were not doing it for the express purpose of avoiding advice and consent.

Last May, there was an appointment during the recess of James Hormel to be Ambassador to Luxembourg. There were several people who were opposed to his appointment and had holds on his appointment. The major reason was not that he was a gay activist, but he had not submitted the appropriate financial information to the appropriate committee for consideration. The President went ahead and appointed him.

Consequently—that was already done, and there was no attempt to undo it even though it was contrary to the Constitution—I sent a letter to the President asking him if he would agree to the same thing Ronald Reagan agreed to back in 1985. Of course, I did not get a very favorable response. However, I said: In the event I do not do that, I will put a hold on every non-defense or nonmilitary appointment or nominee from the President. And I did so.

The weeks went by, and finally I got a letter from the President that said:

I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework which my administration will follow.

I have been concerned because this President has a long history of doing things he says he is not going to do and not doing things he says he will do. Consequently, I sent a letter to the President which I submitted for the RECORD last Wednesday. The letter was dated November 10, signed by myself and 16 other Senators, that said: Make sure you comply with the spirit of this agreement, this letter you have sent; we are going to serve notice right now that in the event you have recess appointments that do not comply with the spirit of the letter, we will put holds for the remaining of the term of your Presidency on all of the judicial nominees. A very serious thing. I repeated this several times last Wednesday to make sure there was no misunderstanding.

Since that time, the White House has cooperated and submitted a list of 13 names. I will read these names and the positions for which they have been